

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION

2007 APR 20 A 9:44

George D. McCarley  
Plaintiff

v.

Household Finance Corporation III  
Defendant

Civil Action No. 3:06-CV-0091-MEF  
Lead Case

Request For Default Judgment

FEDERAL RULES OF CIVIL PROCEDURE, RULE 55(b)<sup>2</sup>  
Request for Default Judgment by Clerk<sup>3</sup>

To The Clerk of The United States District Court, Middle District of Alabama, Eastern Division:

Upon the affidavit attached hereto you will please enter judgment by default against defendant(s) in the above styled action for Eight Million Six Hundred Ninety Six Thousand Dollars (\$8,696,000) with interest at the prevailing court rate of eleven percent (11%), and costs.

28 USC, Rule 55 Note 121 Change of Counsel

"In view of the fact that defendants have been unrepresented, . . . and no justification was asserted for their having failed to obtain substitute counsel in five week period that elapsed thereafter, in view of their failure to defend with due diligence and to comply with Rule, courts standing order and amended order, and failure to prosecute counterclaims with due diligence, . . . order of default was entered against both defendants and each of them, . . . " See Bonner Nat. Life Ins. Co., v. Continental Nat. Corp., D.C. Ill. 1981, 91 F.R.D. 448.

<sup>1</sup> The consolidated case found at 3:06 cv 00091 (lead case) includes Household Finance Corporation, III (00093), HSBC-Gr. Corp. (00102), HSBC Mortgage Services, Inc. (00104), HSBC Finance Corporation (00101), and, Household International, Inc. (00103).

<sup>2</sup> Rule 55(b) provides "Judgment. Judgment by default may be entered as follows:

"(1) *By the Clerk.* When the plaintiff's claim against a defendant is for a sum certain or for a sum which can by computation be made certain, the clerk upon request of the plaintiff and upon affidavit of the amount due shall enter judgment for that amount and costs against the defendant, if he has been defaulted for failure to appear and if he is not an infant or incompetent person. "

<sup>3</sup> Entry of default judgment by clerk. Upon entry of a party's default under Rule 55(a), if the claim is for a sum certain or a sum requiring mathematical calculations, and if the default is for failure to appear and the defaulting party is not an infant or incompetent, default judgment may be entered forthwith by the clerk upon affidavit of the amount due.

28 USC, Rule 55 Note 130<sup>4</sup> Default of Party

“Default was proper sanction for defendants failure to obtain substitute counsel, . . . defendants were personally responsible for the failure because they were aware of the courts orders, . . . there were indications of bad faith on the part of the defendants in causing counsel to withdraw, . . . “ See Hoxworth v. Blinder, Robinson & Co., Inc., C.A. 3 (Pa.) 1992, 980 F. 2d 912.



Respectfully submitted

George D. McCarley, Pro Se  
216B Chestnut Street  
Roanoke, Al 36274  
334-863-6489

#### PROOF OF SERVICE

I, George D. McCarley, do swear or affirm that on this date, April 14, 2007, as required by Supreme Court Rule 29 I have served the enclosed ACTION on each party to the above proceeding or that party's counsel, by depositing envelope containing the above documents in the United States Mail properly addressed to each of them, and with first class postage prepaid, or by delivery to a third party commercial carrier for delivery within 3 calendar days.

The Clerk

Middle District of Alabama, Eastern Division  
One Church Street, PO Box 711  
Montgomery, Al 36101-0711  
334-954-3600

Defendant Attorney

Mr. George Parker  
Bradley Arant Rose and White  
Alabama Center for Commerce  
401 Adams Avenue, Suite 780  
Montgomery, Al 36104  
334-956-7671, 956-7700

I declare under penalty of perjury that the foregoing is true and correct.



Executed on April 14, 2007

George D. McCarley

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<sup>4</sup> Incorrectly reported as Note 120 on Brief in support of Summary Judgment